IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1078 OF 2002

Santosh Pandurang Sawant .... Petitioner

Versus

Union of India & Anr. ...Respondents

Mr. P.M. Pradhan with Ms. Leena Patil for the Petitioner

Mr. D.A. Dube with Mr. Rajiv Chavan for the Respondents.

CORAM: V.G. PALSHIKAR, Ag.C.J., &
SMT. NISHITA MHATRE, J.
DATE: JANUARY 18, 2006.

P.C.:-

1. By this petition, the petitioner has impugned the order dated 11th December, 2001, by which he was dismissed from service for proved misconduct.

2. In reply to the petition, affidavit has been filed, contending that the petitioner has effective, alternative remedy by way of statutory petition under Section 117 of the Border

Security Force Act, 1968 (for short, "the Act"), which has not been followed by the petitioner.

3. In view of the fact that the petitioner has alternative, efficacious remedy, we relegate him to that remedy by way of statutory petition / appeal under Section 117 of the Act.

4. The Supreme Court of India has, in a reported decision in (1996) 6 SCC 199 [*Danda Rajeshwari v. Bodavula Hanumayamma & Ors.*], held that the High Court, while rejecting a petition for existence of alternative remedy, has the power to issue directions to the Tribunal before which the remedy lies.

5. We, therefore, direct that the statutory authority under Section 117 of the Act shall consider the statutory petition, if filed, within four weeks from today on merits only. The petition is accordingly disposed of. Rule is discharged.